

Roche

Pharmaceuticals

FACSIMILE TRANSMISSION

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Page # (with cover):	3		
Message:			

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Applicant Initiated Interview Request Form

Application No.: 09/966,202 First Named Applicant: Belloni, Paula N.
Examiner: George, Konata Art Unit: 1616 Status of Application: Non-final Office Action

Tentative Participants:(1) Konata George(2) Brian Buckwalter

(3) _____

(4) _____

Proposed Date of Interview: 11/21/2003 Proposed Time: 1:00 EST (AM ☐/PM ☒)

Type of Interview Requested:(1) ☒ Telephonic(2) ☐ Personal(3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☐ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rejection</u>	<u>1,6-37 & 43-46</u>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

Brief Description of Arguments to be Presented:

see attached page

An interview was conducted on the above-identified application on _____

NOTE:

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Paula Buckwalter 11/17/03

(Applicant/Applicant's Representative Signature)

(Examiner/SPE Signature)

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Applicant-Initiated Interview Request Form
U.S. Ser. No 09/966,202
George M. Konata, Examiner
Art Unit 1616
Continuation Page

The claims again are rejected over Tong et al. U.S. 6,515,022.

Without regard to the contents of the Tong '022 patent, applicants argue that this is not an appropriate reference because the present application is a divisional application of U.S. Ser. No 09/631,151, now U.S. Patent No. 6,339,107, which was filed August 2, 2000. The present divisional application is therefore entitled to the same priority date. The subject matter of the current case also is closely related to the parent application; however, it is slightly broader by virtue of eliminating the dose range recited in the parent.

The Tong application which issued as the '022 patent was filed on May 11, 2001. Since the priority date of the present application is earlier than the Tong patent it is not prior art to the present application.

The '022 Tong patent is in fact a continuation-in-part of US 6,251,941 which has a §371 date of December 29, 1998, admittedly prior to the filing date of either the Belloni '107 patent or the current application. The '941 patent, however, is solely directed to the treatment of cancer of the respiratory tract, not emphysema. The term emphysema is not found in the '941 Tong patent. The thrust of the '941 is a method to administer water-insoluble retinoic acids to the respiratory tract as ammonium salts. The claims to treatment of emphysema in the '022 patent are new matter and the cited reference is not entitled to priority to the filing date of the '941 patent for treatment of emphysema.

This appears to be a potential interference situation. If the Examiner declares an interference, Applicants believe that the interference is properly between two issued patents, the Belloni '107 patent and the Tong '022 patent, not the instant case.